

State of South Dakota

EIGHTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2013

482U0565

SENATE BILL NO. 146

Introduced by: Senators Brown and Frerichs and Representatives Cronin and Gibson

1 FOR AN ACT ENTITLED, An Act to provide for the collection of certain gaming taxes,
2 penalties, and interest and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 42-7B be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any tax, penalty, or interest due under this chapter is a lien in favor of the commission upon
7 all property and rights to property whether real or personal belonging to the taxpayer. In order
8 to preserve the lien against subsequent mortgages, purchasers, or judgment creditors for value
9 and without actual notice of the lien on any property situated in a county, the commission may
10 file with the register of deeds of the county a notice of the tax lien in such form as the
11 commission determines. The priority of the lien shall be determined as of the date the notice of
12 tax lien is received and indexed by the register of deeds. The notice of tax lien shall create a lien
13 in each county where the notice of tax lien is recorded.

14 Section 2. That chapter 42-7B be amended by adding thereto a NEW SECTION to read as
15 follows:



1 After a notice of lien has been filed as provided in section 1 of this Act, the commission may
2 at any time require the county treasurer to issue a distress warrant in the manner provided in
3 chapter 10-56. Immediately upon receipt of the warrant, the sheriff shall proceed to collect the
4 tax, penalty, or interest due by seizure and sale of personal property as provided in chapter
5 10-56. The sheriff shall remit the amount collected to the county treasurer who shall remit the
6 money to the commission. For such service, the sheriff may collect from the taxpayer and retain
7 the compensation provided in chapter 10-56, but the sheriff's compensation may not be deducted
8 from any tax, penalty, or interest collected.

9 Checking, savings, and similar accounts are personal property and are subject to seizure by
10 the sheriff for the purpose of satisfying the distress warrant.

11 Section 3. That chapter 42-7B be amended by adding thereto a NEW SECTION to read as
12 follows:

13 If a corporation, limited liability company, limited partnership, limited liability partnership,
14 or limited liability limited partnership subject to tax under this chapter fails for any reason to
15 file the required returns or to pay the tax due, any of the corporate officers, member-managers
16 or managers of limited liability companies, or partners of partnerships that control, supervise,
17 or are charged with the responsibility of filing the returns or remitting tax payments shall be
18 personally liable for the failure. The dissolution of a corporation, limited liability company,
19 limited partnership, limited liability partnership, or limited liability limited partnership does not
20 discharge an officer, member-manager, manager, or partner's liability for a prior failure of the
21 corporation, limited liability company, limited partnership, limited liability partnership, or
22 limited liability limited partnership to file a return or remit the tax due. The sum due for such
23 a liability may be assessed and collected as provided by law.

24 If the corporate officers, limited liability company member-managers or managers, or

1 partners elect not to be personally liable for the failure to file the required returns or to pay the
2 tax due, the corporation, limited liability company, limited partnership, limited liability
3 partnership, or limited liability limited partnership shall provide the commission with a surety
4 bond or certificate of deposit as security for payment of any tax that may become due. The bond
5 or certificate of deposit provided for in this section shall be in an amount equal to the estimated
6 annual taxes due under this chapter.

7 Section 4. Whereas, this Act is necessary for the support of the state government and its
8 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
9 full force and effect from and after its passage and approval.